

BOARD OF APPEALS CASE NO. 5039

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BEFORE THE

APPLICANT: Albert Nistico, Jr.

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow an addition
within the required side yard setback;
470 Crisfield Drive, Abingdon**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 4/19/00 & 4/26/00

HEARING DATE: June 7, 2000

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Record: 4/21/00 & 4/28/00

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Albert L. Nistico, is requesting a variance to Section 267-36B, Table VI, of the Harford County Code to permit the construction of an addition onto an existing garage within the required ten (10) foot side yard setback in an R3/Urban Residential District. The Applicant is proposing an eight and one-half (8.5) foot setback.

The subject property is located at 470 Crisfield Drive, Abingdon, in the First Election District. The parcel is more specifically identified as Parcel 297, Lot 203, in Grid 2D, on Tax Map 61. The parcel is approximately .235 acres in size, all of which is zoned R3.

The Applicant, Albert Nistico, appeared and testified that he is applying for the variance in order to construct an addition onto the side of his home. Mr. Nistico indicated that the property is unique in that it is a corner lot, with road frontage at both the front of the house and to the side. He proposes to construct a 24 foot by 6.5 foot addition to the side of his garage, which is the side of the house that is not fronting on a roadway. This proposal would leave a side setback of 8.5 feet, 1.5 feet less than required by the Code. Mr. Nistico testified that the addition is necessary to provide storage for items which are currently preventing him from parking vehicles in the garage. Mr. Nistico noted that he had a letter in support of the request from the neighbor directly behind him, and he did not believe that construction of the addition with the proposed variance would cause any negative impact or detrimental effect to the adjoining property owners, or to the neighborhood in general.

Case No. 5039 - Albert Nistico, Jr.

In addition, Mr. Nistico submitted a letter from the Constant Branch Community Association, Inc., Design Review Board, marked and admitted as Applicant's Exhibit No. 5, which approved the proposed design for the addition. Mr. Nistico indicated that he had read the Staff Report from the Department of Planning and Zoning, which recommended approval of the request, and which noted that, had the builder located the house on the setback line along Denton Way, the addition could have been added without the need for a variance. The Department's Report also noted that the proposed construction will allow adequate room to access the rear of the lot and the adjoining lot in the event of an emergency. Mr. Nistico agreed that he would comply with the Department's recommendation that he obtain all necessary permits and inspections if the variance request is granted.

No witnesses appeared in opposition to the request.

CONCLUSION:

The Applicant is requesting a variance to Section 267-36B, Table VI, of the Harford County Code to construct a 24 foot by 6.5 foot addition to an existing garage within the required ten (10) foot side setback in an R3 Urban Residential District. The Applicant is seeking a 1.5 foot variance, which would reduce the side yard setback to 8.5 feet.

The uncontradicted testimony of the Applicant, which was supported by the Department of Planning and Zoning in its Staff Report, demonstrates that the subject parcel is unique in that it is a corner lot, with road frontage on two sides, with the house located less than the minimum setback distance from the roadway to the side of the home. As a result of the placement of the house in this location, a minor setback variance is needed in order for the Applicant to construct the proposed addition. All of the evidence, including the letter from the community association's design board approving the project, supports the Applicant's position that there would be no substantial detriment to the adjoining properties and no adverse impact to the neighborhood as a whole if the request is granted. There was no evidence to suggest that approval of the variance would materially impair the purpose of the Code or the public interest. In fact, if construction of the addition enables the Applicant to park his vehicles in the garage, rather than in the driveway or on the street, this would be beneficial to the neighborhood, both in terms of appearance as well as safety.

Accordingly, it is the finding of the Hearing Examiner that the subject property is unique

Case No. 5039 - Albert Nistico, Jr.

for the reasons set forth above and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to reduce the side yard setback to 8.5 feet be approved, on the condition that the Applicant obtain all necessary permits and inspections.

Date AUGUST 7, 2000

Valerie H. Twanmoh
Zoning Hearing Examiner